

CCASE:
SOL (MSHA) V. THE PITTSBURG & MIDWAY COAL
DDATE:
19791017
TTEXT:

~1632

Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

Civil Penalty Proceeding

Docket No. DENV 79-327-P

v.

A. C. No. 23-00462-03002V

THE PITTSBURG & MIDWAY COAL
MINING COMPANY,
RESPONDENT

Empire Strip Mine

DECISION

Appearances: Robert S. Bass, Esq., Office of the Solicitor,
U. S. Department of Labor, for Petitioner
George M. Paulson, Jr., Esq., The Pittsburg &
Midway Coal Mining Company, for Respondent

Before: Judge Lasher

This proceeding arose under Section 110(a) of the Federal Mine Safety and Health Act of 1977. A hearing on the merits was held in Joplin, Missouri, on September 20, 1979, at which both parties were well represented by counsel. After considering evidence submitted by both parties and proposed findings of fact and conclusions of law proffered by counsel during closing argument, I entered a detailed oral opinion on the record. It was found that the violation of 30 CFR 77.404(a) charged in the citation for Respondent's failure to maintain a rotary drill in a safe condition did occur. It was also ultimately found that this large operator had no history of previous violations, that it proceeded in good faith to achieve rapid compliance with the safety standard after being served with the citation, that any penalty assessed would not adversely affect its ability to continue in business, that the violation was very serious and resulted from gross negligence. A penalty of \$2,000.00 was assessed.

Respondent is ordered to pay the penalty of \$2,000.00 within 30 days from the date of this decision.

Michael A. Lasher, Jr. Judge